

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2803

Introduced by Assembly Member Horton

February 22, 2008

~~An act to amend Section 871 of the Welfare and Institutions Code, relating to juveniles.~~ *An act to amend Section 6159 of the Government Code, relating to payments to public agencies.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2803, as amended, Horton. ~~Juveniles: escape from custody.~~ *Payments to public agencies: court-ordered restitution.*

Existing law authorizes a public agency to accept a credit card, debit card, or electronic fund transfer as payment for specified charges, including the payment of a court-ordered fee, fine, forfeiture, penalty, or assessment.

This bill would expand this authorization to allow a public agency to accept these designated instruments as payment for a court-ordered restitution.

~~Existing law makes it a misdemeanor for any person who is under the custody of a probation officer or any peace officer in a county juvenile hall or who is committed to, or being transported to or from, a county juvenile ranch, camp, or forestry camp to escape or attempt to escape from that place or during transportation to or from that place. Existing law makes a person who commits one of the above acts by force or violence punishable by imprisonment in the county jail for not more than one year or by imprisonment in the state prison.~~

~~This bill would increase the penalties for a violation of the above provision by force or violence, making that violation punishable by~~

imprisonment in the state prison for a term of 16 months, 2 years, or 3 years, or not more than one year in the county jail. The bill would also impose new penalties for persons who willfully assist in the escape of a juvenile, including penalties for specified law enforcement employees who assist a juvenile in committing one of those acts. By creating new crimes and penalties for criminal conduct, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION. 1. Section 6159 of the Government Code is amended
2 to read:

3 6159. (a) ~~As used in~~ The following definitions apply for
4 purposes of this section:

5 (1) "Credit card" means any card, plate, coupon book, or other
6 credit device existing for the purpose of being used from time to
7 time upon presentation to obtain money, property, labor, or services
8 on credit.

9 (2) "Card issuer" means any person, or his or her agent, who
10 issues a credit card and purchases credit card drafts.

11 (3) "Cardholder" means any person to whom a credit card is
12 issued or any person who has agreed with the card issuer to pay
13 obligations arising from the issuance of a credit card to another
14 person.

15 (4) "Debit card" means a card or other means of access to a
16 debit cardholder's account that may be used to initiate electronic
17 funds transfers from that account.

18 (5) "Draft purchaser" means any person who purchases credit
19 card drafts.

20 (6) "Electronic funds transfer" means any method by which a
21 person permits electronic access to, and transfer of, money held
22 in an account by that person.

(b) Subject to subdivisions (c) and (d), a court, city, county, city and county, or other public agency may authorize the acceptance of a credit card, debit card, or electronic funds transfer for any of the following:

(1) The payment for the deposit of bail for any offense not declared to be a felony or for any court-ordered fee, fine, forfeiture, penalty, ~~or~~ assessment, *or restitution*. Use of a card or electronic funds transfer pursuant to this paragraph may include a requirement that the defendant be charged any administrative fee charged by the company issuing the card or processing the account for the cost of the transaction.

(2) The payment of a filing fee or other court fee.

(3) The payment of any towage or storage costs for a vehicle that has been removed from a highway, or from public or private property, as a result of parking violations.

(4) The payment of child, family, or spousal support, including reimbursement of public assistance, related fees, costs, or penalties, with the authorization of the cardholder or accountholder.

(5) The payment for services rendered by any city, county, city and county, or other public agency.

(6) The payment of any fee, charge, or tax due a city, county, city and county, or other public agency.

(7) The payment of any moneys payable to the sheriff pursuant to a levy under a writ of attachment or writ of execution. If the use of a card or electronic funds transfer pursuant to this paragraph includes any administrative fee charged by the company issuing the card or processing the account for the cost of the transaction, that fee shall be paid by the person who pays the money to the sheriff pursuant to the levy.

(c) A court desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of the Judicial Council. A city desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of its city council. Any other public agency desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of the governing body that has fiscal responsibility for that agency.

(d) After approval is obtained, a contract may be executed with one or more credit card issuers, debit card issuers, electronic funds

1 transfer processors, or draft purchasers. The contract shall provide
2 for *the following matters*:

3 (1) The respective rights and duties of the court, city, county,
4 city and county, or other public agency and card issuer, funds
5 processor, or draft purchaser regarding the presentment,
6 acceptability, and payment of credit and debit card drafts and
7 electronic funds transfer requests.

8 (2) The establishment of a reasonable means by which to
9 facilitate payment settlements.

10 (3) The payment to the card issuer, funds processor, or draft
11 purchaser of a reasonable fee or discount.

12 (4) Any other matters appropriately included in contracts with
13 respect to the purchase of credit and debit card drafts and
14 processing of electronic funds transfer requests as may be agreed
15 upon by the parties to the contract.

16 (e) The honoring of a credit card, debit card, or electronic funds
17 transfer pursuant to subdivision (b) hereof constitutes payment of
18 the amount owing to the court, city, county, city and county, or
19 other public agency as of the date the credit or debit card is honored
20 or the electronic funds transfer is processed, provided the credit
21 or debit card draft is paid following its due presentment to a card
22 issuer or draft purchaser or the electronic funds transfer is
23 completed with transfer to the agency requesting the transfer.

24 (f) If any credit or debit card draft is not paid following due
25 presentment to a card issuer or draft purchaser or is charged back
26 to the court, city, county, city and county, or other public agency
27 for any reason, any record of payment made by the court, city, or
28 other public agency honoring the credit or debit card shall be void.
29 If any electronic funds transfer request is not completed with
30 transfer to the agency requesting the transfer or is charged back
31 to the agency for any reason, any record of payment made by the
32 agency processing the electronic funds transfer shall be void. Any
33 receipt issued in acknowledgment of payment shall also be void.
34 The obligation of the cardholder or accountholder shall continue
35 as an outstanding obligation as if no payment had been attempted.

36 (g) Notwithstanding Title 1.3 (commencing with Section 1747)
37 of Part 4 of Division 3 of the Civil Code, a court, city, county, city
38 and county, or any other public agency may impose a fee for the
39 use of a credit or debit card or electronic funds transfer, not to
40 exceed the costs incurred by the agency in providing for payment

1 by credit or debit card or electronic funds transfer. These costs
2 may include, but shall not be limited to, the payment of fees or
3 discounts as specified in paragraph (3) of subdivision (d). Any fee
4 imposed by a court pursuant to this subdivision shall be approved
5 by the Judicial Council. Any fee imposed by any other public
6 agency pursuant to this subdivision for the use of a credit or debit
7 card or electronic funds transfer shall be approved by the governing
8 body responsible for the fiscal decisions of the public agency.

9 (h) Fees or discounts provided for under paragraph (3) of
10 subdivision (d) shall be deducted or accounted for prior to any
11 statutory or other distribution of funds received from the card
12 issuer, funds processor, or draft purchaser to the extent not
13 recovered from the cardholder or accountholder pursuant to
14 subdivision (g).

15 (i) The Judicial Council may enter into a master agreement with
16 one or more credit or debit card issuers, funds processors, or draft
17 purchasers for the acceptance and payment of credit or debit card
18 drafts and electronic funds transfer requests received by the courts.
19 Any court may join in any of these master agreements or may enter
20 into a separate agreement with a credit or debit card issuer, funds
21 processor, or draft purchaser.

22 **SECTION 1.** Section 871 of the Welfare and Institutions Code
23 is amended to read:

24 ~~871. (a) Any person under the custody of a probation officer~~
25 ~~or any peace officer in a county juvenile hall, or committed to a~~
26 ~~county juvenile ranch, camp, forestry camp, or regional facility,~~
27 ~~who escapes or attempts to escape from the institution or facility~~
28 ~~in which he or she is confined, who escapes or attempts to escape~~
29 ~~while being conveyed to or from such an institution or facility, or~~
30 ~~who escapes or attempts to escape while outside or away from~~
31 ~~such an institution or facility while under the custody of a probation~~
32 ~~officer or any peace officer, is guilty of a misdemeanor, punishable~~
33 ~~by imprisonment in the county jail not exceeding one year.~~

34 ~~(b) Any person who commits any of the acts described in~~
35 ~~subdivision (a) by use of force or violence shall be guilty of a~~
36 ~~felony, punishable by imprisonment in the state prison for a term~~
37 ~~of 16 months, two years, or three years, or in the county jail not~~
38 ~~exceeding one year.~~

39 ~~(c) The willful failure of a person under the custody of a~~
40 ~~probation officer or any peace officer in a county juvenile hall, or~~

1 committed to a county juvenile ranch camp, or forestry camp, to
2 return to the county juvenile hall, ranch, camp, or forestry camp
3 at the prescribed time while outside or away from the county
4 facility on furlough or temporary release constitutes an escape
5 punishable as provided in subdivision (a). However, a willful
6 failure to return at the prescribed time shall not be considered an
7 escape if the failure to return was reasonable under the
8 circumstances.

9 (d) Any person who willfully assists or attempts to assist a
10 person to commit any of the acts described in subdivision (a) shall
11 be guilty of a misdemeanor, punishable by imprisonment in the
12 county jail not exceeding one year.

13 (e) Any person who willfully assists or attempts to assist a
14 person to commit any of the acts in subdivision (a) by force or
15 violence shall be guilty of a felony, punishable by imprisonment
16 in the state prison for a term of 16 months, two years, or three
17 years, or in the county jail not exceeding one year.

18 (f) Any employee of a county probation department or other
19 law enforcement agency who willfully assists or attempts to assist
20 a person to commit any of the acts in subdivision (a) shall be guilty
21 of a felony, punishable by imprisonment in a state prison for a
22 term of 16 months, two years, or three years, or in the county jail
23 not exceeding one year.

24 (g) A minor who, while under the supervision of a probation
25 officer, removes his or her electronic monitor without authority
26 and who, for more than 48 hours, violates the terms and conditions
27 of his or her probation relating to the proper use of the electronic
28 monitor shall be guilty of a misdemeanor. If an electronic monitor
29 is damaged or discarded while in the possession of the minor,
30 restitution for the cost of replacing the unit may be ordered as part
31 of the punishment.

32 (h) The liability established by this section shall be limited by
33 the financial ability of the person or persons ordered to pay
34 restitution under this section, who shall, upon request, be entitled
35 to an evaluation and determination of ability to pay under Section
36 903.45.

37 (i) For purposes of this section, "regional facility" means any
38 facility used by one or more public entities for the confinement of
39 juveniles for more than 24 hours.

1 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~
7 ~~the Government Code, or changes the definition of a crime within~~
8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

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